

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

ContentGuard Holdings, Inc.,

*Plaintiff,*

v.

Amazon.com, Inc.; Apple Inc.; BlackBerry Limited (fka Research In Motion Limited) and BlackBerry Corporation (fka Research In Motion Corporation); DirecTV, LLC; HTC Corporation and HTC America, Inc.; Huawei Technologies Co., Ltd. and Huawei Device USA, Inc.; Motorola Mobility LLC; Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC,

*Defendants.*

Civil Action No. 2:13-cv-01112-JRG

JURY TRIAL DEMANDED

**PLAINTIFF CONTENTGUARD HOLDINGS, INC.'S RESPONSE TO  
AMAZON.COM, INC.'S NOTICE IN SUPPORT OF MOTION TO SEVER (DKT. 249)**

In its Notice in Support of Motion to Sever, Amazon argues that severance is appropriate because ContentGuard's October 17 Second Amended Complaint purportedly "withdrew [ContentGuard's] allegations that all Defendants offer the Amazon Kindle and MP3 apps and that all Defendants practice the UITS standard." Dkt. 249 at 2. Amazon is wrong.

Joinder under the America Invents Act ("AIA") remains proper. All Defendants—other than DirecTV, which entered this litigation as an intervenor in early September (*see* Dkt. 210)—continue to infringe ContentGuard's DRM patented technology by offering the same Amazon "apps" and implementing the UITS standard on their accused devices.<sup>1</sup> And because DirecTV has stepped in as an intervenor to defend certain of ContentGuard's claims against the Samsung Defendants, ContentGuard's claims against DirecTV are properly joined for the reasons explained in DirecTV's sealed motion for intervention. Dkt. 199.<sup>2</sup>

AIA joinder thus remains appropriate and Amazon's motion for severance should be denied.

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<sup>1</sup> It is irrelevant that the Second Amended Complaint omits a section titled "Defendants' Common Acts of Infringement" that ContentGuard had included in previous versions of the complaint. ContentGuard need not include detailed factual allegations in its complaint demonstrating the propriety of joinder where the basis for joinder has been made evident through discovery, as explained extensively in four rounds of briefing highlighting the similarities in ContentGuard's infringement contentions against all Defendants. Further, the factual support that ContentGuard would have had to recite in the Second Amended Complaint with respect to DirecTV is contained in a document DirecTV filed under seal. *See* Dkt. 198, 199, 201.

<sup>2</sup> Notwithstanding ContentGuard's position with respect to joinder, ContentGuard has presented a potential severance proposal to DirecTV on certain terms and conditions. DirecTV is currently considering that proposal.

Dated: November 10, 2014

Respectfully submitted,

/s/ Sam Baxter

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**ATTORNEYS FOR CONTENTGUARD  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic services on this the 10th Day of November 2014. Local Rule CV-5(a)(3)(A).

/s/ Radu A. Lelutiu